

FCC MAIL ROOM

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Broadcast Services, Advanced Television }
Systems Sixth Further Notice of Proposed } MM Docket No. 87-268; FCC 95-315
Rule Making. } DOCKET FILE COPY ORIGINAL

WASHINGTON COUNTY TELEVISION, INC. COMMENTS

I. INTRODUCTION

Washington County Television, Inc. (WCTV), owns and operates **Low Power Television Stations K66EK** in Bartlesville, OK. and **K60EX** in Nowata, OK.. Both stations, in concert with many other Low Power (LPTV) broadcasters, have vested interest in the above-referenced proceeding.

WCTV wishes to **THANK the Commission** for acknowledging the impact on low power (LPTV) broadcasters within the Commission's Sixth Further Notice of Proposed Rule Making.

Commission studies estimate approximately one-third of all LPTV stations may have to cease operations. That's OK for the other guy but WCTV's two stations do not wish to be part of that "one-third". WCTV wishes to address the Commission accordingly.

The Sixth Further Notice addresses television translators only briefly. Translators pose substantial additional obstacles to implementation of ATV. WCTV wishes the Commission's attention to this detail.

The Commission proposes withdrawing spectrum above channel 59 at the onset of ATV implementation and above channel 51 thereafter. WCTV wishes to communicate with the Commission on this issue.

WCTV has followed the advancement of ATV implementation from its onset. As the proposals near a Final Rule, the logic of automatic issuance of second channels raises more questions than WCTV originally comprehended. WCTV wishes some clarification from the Commission.

The Commission requests comment on minimizing impact on Low Power operations. Several possible alternatives are proposed by the Commission. **WCTV RESOUNDINGLY APPLAUDS** the Commission for their inventiveness and willingness

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to work with the LPTV community and desires the Commissions indulgence on this matter.

No reference, thus far, has been noted regarding Low Power stations being allowed to transition to DTV. WCTV wishes to address the Commission on this.

II. ONE THIRD OF ALL LPTV'S TO GO DARK

LPTV's, operating as commercial broadcasters, offering free programming, covering local events and addressing issues of local significance, serve the public interest. These stations were generally built with the licensee's own dollars. They represent substantial investments in their community, offering employment, paying rent and utilities, purchasing goods and services. While this is no different than a Full Power station, as with the biblical widows mite, the investment and subsequent potential loss is significant to the LPTV operator. Full Power stations are not in jeopardy while LPTV's are.

It is believed by WCTV that low power broadcasters have a substantial stake in the future of free over-the-air broadcasting. Some Low Power television stations provide only minimal service. Many are substantially viewed and many are indistinguishable from their Full Power counterparts.

Commission figures show 1,750 licensed LPTV stations and 1,400 new construction permits (CP's). Assuming only one third of the CP's get built, the licensed stations will grow to 2,216. The Commission estimates one third, or 738 LPTV stations, must go dark to accommodate ATV. The 1,141 full power commercial stations are to be provided a second source of income while 738 LPTV (and only LPTV) stations face loss of their license.

Still assuming, if only one third of the LPTV stations fall into the "substantially viewed" category then 738 are viable, paycheck providing, community serving entities. These stations have as much right to exist as any Full Power station. Granted, the number "738" is an assumption. However, the number "1,141" assumes **EVERY** Full Power commercial station to be a substantially viewed, viable entity. WCTV believes far more than one third of the LPTV's are viable entities and by no stretch of the imagination are *all* Full Powers substantially viewed. The assumptions seem, to WCTV, weighted in favor of the Full Power stations, yet Full Power operators are to be awarded additional spectrum on which to generate revenue while LPTV operators face economic disaster!

WCTV respectfully submits that NO LOW POWER STATION SHOULD BE FORCED OUT OF BUSINESS TO ACCOMMODATE ATV. Recent actions by the Commission to recall dormant licenses will decreasing their number. Spectrum space occupied by translators exceeds that of both Full Power and LPTV stations.

III. ONE FOURTH OF ALL TRANSLATORS TO GO DARK

The Sixth Further Notice records the number of TV translators at 5,050 and the above-referenced notice indicates a smaller percentage of translators are expected to go dark than LPTV stations. Many translators are owned by Full Power stations. WCTV suggests no Full Power station receive additional spectrum without first relinquishing spectrum occupied by any translator(s) carrying its signal, sufficient to accommodate any displaced LPTV.

Translators are used to extend coverage and overcome terrain obstacles. LPTV stations must tailor radiation contours to avoid interference with translators as well as Full Power stations. In some cases, elimination of one or more translators would effectively allow an existing LPTV to obtain similar coverage by changing channel. Where terrain necessitated use of translators, the LPTV may wish to trade its channel for a Full Powers access to the terrain hidden communities. Nothing would prevent the LPTV from working in concert with the Full Power station to continue the Full Powers access to these communities... for consideration of course.

The proliferation of translators poses another, as yet, undiscussed problem. Since most Full Power stations own multiple translators to increase propagation of their existing NTSC signal, are second channel recipients to also receive more spectrum for DTV translators to insure similar coverage of their DTV signal?

IV. WITHDRAWAL OF SPECTRUM ABOVE CHANNEL 51

WCTV commented on the Fourth Further Notice "Allocation of a second 6 MHz channel to full power stations can have no other result than to force many LPTV stations off the air. Even if the LPTV stations were moved, the preeminent desire to "recover contiguous blocks of spectrum" would likely be their new channels."

The Commission obviously came to the same conclusion, then proposed elimination of the *running room* afforded by upper channels (52-69). With the loss of these upper channels there will be no place to run (relocate) to. The upper channels have long been undesirable to most broadcasters and remained relatively unpopulated. A few of us found them useful (both WCTV stations reside above channel 51). Without the upper channels, the "optimization" task alluded to in the Commission's Sixth Further Notice will quickly degenerate into years of wrangling by stations simply trying to find a channel.....somewhere.

WCTV believes most broadcasters were resigned to the eventual loss of the lower VHF spectrum (channels 2 - 6). Now the Commission proposes not only *eventual* recovery of VHF but *early* recovery of the upper UHF channels.

V. DO THE BENEFITS OUTWEIGH THE COST

WHOA THERE PARD'NER! What are we doing here? As WCTV understands the current proposal;

- 1) All Full Power stations will be given a second channel.
- 2) Full Power stations may immediately use the additional channel for minimum bandwidth Digital TV (DTV) and Fee-For-Service on remaining bandwidth.
- 3) Once committed to minimal bandwidth DTV, with remaining bandwidth committed to other service, the broadcaster **COULD NOT LATER OFFER HDTV.**
- 4) Full Power stations may continue their present NTSC television service for years.
- 5) All stations above channel 59 will immediately be relocated or must surrender their channel (the great majority of stations above 59 are LPTV and translators).
- 6) All stations above channel 51 must eventually move.
- 7) 738 LPTV stations will eventually be forced off the air.
- 8) Most remaining LPTV's will be forced to relocate.

Why are we doing this? The initial impetus was forced transition to HDTV, forced only to insure all Full Power broadcasters were on equal footing with equal chance of success. The FCC was to use its good offices to level the playing field, providing each station a second channel and requiring HDTV service. Each station would thus be in the same boat and given equal opportunity to sink or swim. Is it within the scope of the Commissions charter to insure success for any broadcaster? Yet with the demise of any technical standard for HDTV and the FCC encouraging broadcasters to use the second channel for unrelated telecommunications, is not the Commission attempting to guarantee success to a select group, Full Power broadcasters?.

WCTV contends the Market Place is the appropriate regulator for Digital Television. In recent history we have witnessed the market place determine consumer video tape formats and personal computer standards, despite the technical superiority of the losers over the winners. The FCC did not attempt to control either and the public decided.

WCTV urges the Commission to **TERMINATE ISSUING AUTOMATIC SECOND CHANNELS** to all Full Power broadcasters, instead treating DTV as an experimental service until the market place has made its preference known. Long established procedures exist for obtaining experimental use of public spectrum. WCTV fails to appreciate the logic for issuing second broadcast channels to a select group, at the expense of another group, to promote services unrelated to broadcasting.

WCTV believes the Commission has responsibility to insure efficient use of the public spectrum and should "promote" transition to the "core" channels set forth in the Sixth Further Notice. The operative word "promote" should not be construed to mean "wreak havoc" on existing LPTV operators. Restructuring the allocation table will eventually vacate the above-referenced channel groups. At issue is the time table. Orchestrating migration to the core channels, regardless of broadcast service provided, and issuance of at least a broad DTV technical standard should be the preeminent tasks. Second channels **must** wait! WCTV submits, providing second channels, for a select group, for non-broadcast use is **not** in the public interest.

VI. MINIMIZING IMPACT UPON LOW POWER BROADCASTERS

Commissioners, WCTV genuinely appreciates and applauds your recognition of LPTV as demonstrated in the Sixth Further Notice. WCTV pleads with the Commission to level the playing field for LPTV. The above-referenced notice is a beginning. The Commission has suspended any further NTSC applications. In 18 months (LPTV construction permit time limit) we will know how many LPTV stations exist.

The Commission acknowledges LPTV stations are to be accommodated and stated in the Sixth Further Notice "the Commission Intends to make every effort to accommodate the needs and concerns of all affected parties". Several approaches to LPTV are proposed by the Commission;

- 1) "permit displaced low power stations to apply for a suitable replacement channel without being subject competing applications".
- 2) "permit low power stations to operate until a displacing DTV station or new service provider is operational".
- 3) "allow low power stations to file non-window displacement relief applications to change their operating parameters to cure or prevent interference caused to or received from a DTV station or other protected service".
- 4) Possibly "require DTV stations to devote a portion of their channel capacity to the carriage of local LPTV stations that are displaced".
- 5) Possibly "require that all full service broadcasters in a market agree on some arrangement for the carriage of the programming of displaced LPTV stations during the transition".

WCTV proposes the Commission **DROP THE SECONDARY STATUS** of LPTV stations. Nothing would do more to minimize the impact on LPTV. WCTV contends the above mentioned approaches would become unnecessary if LPTV stations were removed from Secondary Status. Returning Sub-part G of 47 CFR §74. to regulations for translators only and transferring existing LPTV's to §73. would result in affected stations being required to maintain their technical, operational and record keeping to §73. standards. Many LPTV stations currently operate by Full Power standards. Some would

doubtless surrender their license. The remaining stations already exist so treating them as existing, licensed, on-air entities would preclude any financial showings required to obtain licensing under §73..

VII. ACCESS TO SECOND CHANNELS FOR ATV

WCTV proposes that any station (Full Power or LPTV) wishing to transition to DTV be allowed to do so. If additional spectrum space cannot be found, a station might purchase a LPTV within its coverage area to obtain spectrum. If an LPTV can find spectrum why should it not be allowed use of same? Stations may wish to trade spectrum space in another community or otherwise work together in creative ways to obtain the second channel. Such an approach would put things back on a Free Market path. In any case, it would only work if the LPTV station were on equal legal footing with the Full Power broadcaster and could NOT be forced into going dark or changing its radiation pattern at the whim of a "First Class" citizen.

WCTV, like other LPTV operators, has a substantial investment in its physical plant and communities of license. WCTV is both growing and scared! We made the investment in the true entrepreneurial spirit of a free market. WCTV does not look to the Commission for any guarantees of success and recognizes the approach proposed (elimination of secondary status for LPTV) could be viewed as a windfall to LPTV stations. The value of many would increase exponentially overnight. The current proposal already assures Full Power stations of such a windfall.

VIII. CONCLUSION

The Commission is deserving of appreciation of LPTV operators for its recognition of impact on LPTV associated with proposed ATV implementation. WCTV wishes to advise the Commission of the role of LPTV in meeting the public interest. Low Power broadcasters serve the public in ways similar to Full Power stations. Unlike the Full Power operator, our overhead is often substantially less, affording the LPTV station the ability to air more local programming. WCTV offers up to 24 hours of local programming a week. LPTV stations often cover local events in their entirety instead of by 10 second sound byte. LPTV's make prime time available that would be unprofitable for a Full Power station and unaffordable to the program producer.

LPTV stations enhance community awareness through programming impractical for Full Power stations. WCTV serves a number of small towns within 50 miles of a major city. WCTV programming promotes every local event. Our viewers know more about what happens in our communities than do residents of the major city relying on their Full Power stations. The Full Power stations like to claim they serve our smaller communities but can do no better than an occasional showing during sweeps or when someone is

murdered. Local coverage lasting more than 30 seconds is always left to the local LPTV station.

As example, the Full Powers helicopter to as many High School football games as possible on Friday nights, devoting an average of 24 seconds to each. Local viewers enjoy seeing those 24 seconds on the "Big" station but enjoy seeing the entire game on their "little" station even more. Many of the local athletes get more weekly air play than talk show celebrities on the major network affiliates. Tapes of these kids are recorded, free, off the air, and are often instrumental in obtaining College scholarships. While WCTV's stations are located some distance from a major city, the same type of, in depth, coverage is provided to many major cities by LPTV operators.

Cable is often assumed to fill the roll of community television for the small town public. Not so! There is no enticement for a cable operator to offer anything more than minimal local television production. Consider a cable system with 10,000 subscribers, each paying \$15. to \$30. per month. Commercial sales simply help pay local origination costs and amount to small change compared to the monthly subscriber receipts. Unlike cable, LPTV stations derive the bulk of their income from sale of air time. Local programming sells and LPTV stations sell it!

Loss of LPTV stations due to implementation of ATV would deprive the public of local area programming. LPTV stations usually offer alternative programming. Programming the viewing public finds less offensive than available on mainstream networks. Loss of such alternative programming would not be in the public interest. WCTV does not doubt that some LPTV stations can go dark without notice. WCTV urges the Commission to recognize that many LPTV stations truly SERVE THE PUBLIC!

Broadcasters have long known the public believes we get our channel for free and have a government granted license to steal. Some segments of the public are familiar with the dollars generated for the national treasury by auction of something called "Spectrum". Others wish the USA gain prominence in High Definition Television for various reasons. Now even the computer industry has entered the fracas. The driving impetus for ATV has been diversified to such degree the results are unlikely, in WCTV's opinion, to be any "giant leap for mankind".

Auction of recovered spectrum will not balance the nations budget. Mandated High Definition TV is no longer being proposed. The public, believing the FCC turns a blind eye to broadcasters minting money while simultaneously encouraging them to offer Fee-For-Services and TV receiver manufacturers to double TV set prices, is going to come unglued. All we have to do to make this happen is force 738, hard working, entrepreneurial, employers out of business and 1,478 others to undergo years of added expense, loss of revenue and uncertainty (many of whom will doubtless eventually go dark as a result). Looks good to WCTV, lets do it!

Recovery of spectrum has taken precedence over smooth transition to HDTV. The Fourth and Sixth Further Notices make clear recovery of contiguous blocks of spectrum is now paramount to insuring public access to good quality, free, television service. WCTV respectfully submits this to be not in the public interest. No doubt spectrum will be available, in the future, if good engineering practices are applied to an orderly transition to core channels. Accelerating the time table, simply to recover spectrum, will cost the public far more than the auction of such spectrum will bring.

WCTV ponders what the Commission will do after the Full Power recipients of second channels have committed to minimal bandwidth DTV, surrendered their original channel, and the rest of the world has gone to full bandwidth HDTV! Perhaps these broadcasters could again be provided with additional spectrum to upgrade to HDTV. WCTV wonders where such spectrum might come from? Are we to count on *future* technology to render additional bandwidth unnecessary for HDTV? Could be... but even down here in Oklahoma we have not seen pigs fly yet!

WCTV believes the Commission is presiding over a historic period. Properly orchestrated, overhaul of the broadcast system can serve the public and the broadcasters alike. WCTV acknowledges the current **FREEZE ON NEW NTSC STATIONS**, urges the Commission to **TERMINATE ISSUING AUTOMATIC SECOND CHANNELS** to all Full Power stations, **REQUIRE ELIMINATION OF TRANSLATORS** before any LPTV's license is lifted and **DROP SECONDARY STATUS FOR LPTV**.

Respectfully submitted,

WASHINGTON COUNTY TELEVISION, INC.

By its President

A handwritten signature in black ink, appearing to read "Murphy D. Boughner", written in a cursive style.

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